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11 *Attorney for Plaintiff, The Bank of New York Mellon fka The Bank of New York as Trustee for the*
12 *Certificateholders of the CWALT, Inc., Alternative Loan Trust 2007-OA3 Mortgage Pass-*
13 *Through Certificates, Series 2007-OA3*

9 **UNITED STATES DISTRICT COURT**
10 **DISTRICT OF NEVADA**

11 THE BANK OF NEW YORK MELLON FKA
12 THE BANK OF NEW YORK AS TRUSTEE
13 FOR THE CERTIFICATEHOLDERS
14 OF THE CWALT, INC., ALTERNATIVE
15 LOAN TRUST 2007-OA3 MORTGAGE PASS-
16 THROUGH CERTIFICATES, SERIES
17 2007-OA3,

18 Plaintiff

19 vs.

20 FIDELITY NATIONAL TITLE GROUP, INC.
21 and CHICAGO TITLE INSURANCE
22 COMPANY,

23 Defendants

Case No.: 2:19-cv-01566-CDS-BNW

**STIPULATION AND ORDER FOR
LIMITED STAY OF CASE**

24 Plaintiff, The Bank of New York Mellon fka The Bank of New York as Trustee for the
25 Certificateholders of the CWALT, Inc., Alternative Loan Trust 2007-OA3 Mortgage Pass-
26 Through Certificates, Series 2007-OA3 (“Plaintiff”) and Defendants Fidelity National Title
27 Group, Inc. and Chicago Title Insurance Company (“Defendants”, and with Plaintiff, the
28 “Parties”), by and through their undersigned counsel, hereby stipulate as follows:

This matter involves a title insurance coverage dispute wherein Plaintiff contends, and Defendants disputes, that the title insurance claim involving an HOA assessment lien and

1 subsequent sale was covered by the subject policy of title insurance. There are now currently
2 pending in the United States District Court for the District of Nevada and Nevada state courts
3 more than one-hundred actions between national banks, on the one hand, and title insurers, on the
4 other hand. In virtually all of these actions, the title insurer underwrote an ALTA 1992 or ALTA
5 2006 loan policy of title insurance with form 1 coverage, along with the CLTA 100/ALTA 9
6 and/or CLTA 115.2/ALTA 5 Endorsements.

7 This matter was previously stayed pending a Ninth Circuit appeal in *Wells Fargo Bank,*
8 *N.A. v. Fidelity Nat'l Title Ins. Co.*, Ninth Circuit Case No. 19-17332 (District Court Case No.
9 3:19-cv-00241-MMD-WGC) (“*Wells Fargo II*”) [ECF No. 10], which resolved on November 21,
10 2021.

11 The Parties have conferred and believe another limited six-month stay is warranted. The
12 *PennyMac Corp. v. Westcor Land Title Ins. Co.*, Nevada Supreme Court Case No. 83737
13 (“*PennyMac*”) appeal remains pending. Additionally, there is another fully briefed appeal to the
14 Nevada Supreme Court involving a similar coverage dispute in *Deutsche Bank Nat'l Trust Co. v.*
15 *Fidelity Nat'l Title Ins. Co.*, Nevada Supreme Court Case No. 84161 (“*Deutsche Bank*”). Both
16 *PennyMac* and *Deutsche Bank* are fully briefed, but oral argument has not been set. The Parties
17 anticipate that the Nevada Supreme Court’s decisions in the foregoing appeals may touch upon
18 issues regarding the interpretation of policy and claims handling, that could potentially affect the
19 disposition of the instant action.

20 Accordingly, the Parties believe an additional stay of six months in the instant action will
21 best serve the interests of judicial economy. The Parties request that the action be stayed for an
22 additional six months, through and including, August 7, 2023. The Parties are to submit a Joint
23 Status Report on or before August 7, 2023. The Parties further agree that this stipulation and stay
24 of this case is entered based on the specific circumstances surrounding this particular case, and
25 that this stipulation shall not be viewed as a reason for granting a stay in any other pending matter.

26 **NOW THEREFORE**, the Parties, by and through their undersigned counsel, hereby
27 stipulate and agree as follows:
28

- 1 1. In the interests of judicial economy and in efforts to preserve the Parties' resources,
2 the Parties request that this action be **STAYED FOR AN ADDITIONAL SIX (6)**
3 **MONTHS**, through and including, August 7, 2023.
- 4 2. All deadlines currently set in this case shall remain **VACATED**.
- 5 3. The Parties are to submit a Joint Status Report on or before August 7, 2023.
- 6 4. By entering into this Stipulation, none of the Parties is waiving its right to
7 subsequently move the Court for an order lifting the stay in this action.
- 8 5. Notwithstanding this Stipulation, the Parties may continue to conduct third-party
9 discovery (including by issuing and enforcing third-party subpoenas) to preserve
10 evidence.

11 **IT IS SO STIPULATED.**

12 DATED this 6th day of February, 2023.

DATED this 6th day of February, 2023.

13 WRIGHT, FINLAY & ZAK, LLP

SINCLAIR BRAUN LLP

14 /s/ Lindsay D. Dragon

/s/ Kevin S. Sinclair

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21 *for the Certificateholders of the CWALT,*

Attorney for Defendants Fidelity National
Title Group, Inc. and Chicago Title Insurance
Company

22 *Inc., Alternative Loan Trust 2007-OA3*

23 *Mortgage Pass-Through Certificates, Series*
24 *2007-OA3*

25 **IT IS SO ORDERED.**

26 
UNITED STATES DISTRICT JUDGE

27 Dated: February 7, 2023